

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OHIO
EASTERN DIVISION**

DIGITAL MEDIA SOLUTIONS, LLC,)	CASE NO. 1:19-CV-145
)	
Plaintiff,)	JUDGE DAN AARON POLSTER
)	
v.)	MAGISTRATE JUDGE
)	THOMAS M. PARKER
SOUTH UNIVERSITY OF OHIO, LLC, <i>et al.</i> ,)	
)	
Defendants.)	

**STIPULATION AND AGREED ORDER BETWEEN RECEIVER,
PLAINTIFF, DEFENDANTS, RECEIVERSHIP ENTITIES, AND
U.S. BANK, NATIONAL ASSOCIATION**

Mark E. Dottore (the “Receiver”), Plaintiff Digital Media Solutions, LLC (the “Plaintiff”), Defendant Dream Center Education Holdings, LLC, Defendant Argosy Education Group, LLC, and Defendant South University of Ohio, LLC (collectively, the “Defendants”), each of the Receivership Entities,¹ Flagler Master Fund SPC Ltd. (“Flagler”), as a lender under the Credit Agreement² and as a secured party and beneficiary of each of the First Lien Pledge and Security Agreement,³ Second Lien Guaranty⁴ and the Second Lien Pledge and Security Agreement,⁵ and

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the *Order Appointing Receiver* [Docket No. 8] (the “Initial Receiver Order”), as clarified, *nunc pro tunc* to entry of the Initial Receiver Order, pursuant to the *Order Clarifying Order Appointing Receiver* [Docket No. 14] (the “Clarifying Order”) (the Initial Receiver Order, as clarified by the Clarifying Order, and as such order may be further amended or clarified or modified, the “Receiver Order”).

² As used herein, the term “Credit Agreement” means that certain Senior Secured Credit and Guaranty Agreement, dated as of October 17, 2017, as amended by that certain Amendment No. 1 and Limited Forbearance Agreement dated as of August 31, 2018 and that certain Omnibus Amendment No. 2 to Credit Documents dated as of January 7, 2019, by and among Dream Center Education Holdings, LLC, Dream Center Argosy University of California, LLC, and Dream Center Education Management, LLC, as borrowers, certain subsidiaries of the borrowers, as guarantors, the lenders party thereto from time to time, and U.S. Bank National Association, as administrative agent and collateral agent, as the same may be amended, amended and restated, modified, supplemented, or otherwise modified from time to time.

³ As used herein, the term “First Lien Pledge and Security Agreement” means that certain Pledge and Security Agreement, dated as of October 17, 2017, between each of the grantors party thereto and U.S. Bank National Association, as collateral agent under the Credit Agreement.

U.S. Bank, National Association, acting in its capacity as administrative agent and collateral agent under the Credit Agreement and as collateral agent under the First Lien Pledge and Security Agreement (in such capacities, the “DCEH Agent”), and as EDMC Agent under each of the Second Lien Guaranty and the Second Lien Pledge and Security Agreement (the EDMC Agent, the DCEH Agent, the Receiver, the Plaintiff, the Defendants, each of the Receivership Entities, and Flagler, collectively, the “Parties”), by and through their respective counsel, hereby enter into this stipulation and agreed order (the “Stipulation and Order”) and stipulate and agree as follows:

RECITALS

A. On January 18, 2019, the Plaintiff filed that certain *Emergency Motion for the Appointment of a Receiver and Entry of a Temporary Restraining Order and Preliminary Injunction* [Docket No. 3] (the “Receiver Motion”), whereby the Plaintiff requested that the Defendants and the Receivership Entities be placed into a federal receivership.

B. On January 18, 2019, the Defendants filed that certain *Response to Plaintiff’s Emergency Motion for the Appointment of a Receiver and Entry of a Temporary Restraining Order and Preliminary Injunction* [Docket No. 7] (the “Response”), whereby the Defendants consented to the relief requested by Plaintiff pursuant to the Receiver Motion.

C. On January 18, 2019, the Court entered the Initial Receiver Order, which granted the Receiver Motion.

⁴ As used herein, the term “Second Lien Guaranty” means that certain Second Lien Guaranty dated as of October 17, 2017 made by each of the guarantors party thereto in favor of U.S. Bank National Association, as collateral agent under the EDMC Credit Agreement (as defined in the Second Lien Guaranty) (in such capacity, the “EDMC Agent”). The Defendants and their affiliates agreed to provide the Second Lien Guaranty and the Second Lien Pledge and Security Agreement in exchange for, among other things, obtaining the benefit of certain letters of credit drawn under the EDMC Credit Agreement.

⁵ As used herein, the term “Second Lien Pledge and Security Agreement” means that certain Second Lien Pledge and Security Agreement, dated as of October 17, 2017, between each of the grantors party thereto and the EDMC Agent.

D. On January 25, 2019, the Receiver filed that certain *Motion of Mark E. Dottore, Receiver for Entry of Order Clarifying Order Appointing Receiver* [Docket No. 12], pursuant to which the Court entered the Clarifying Order, which clarified the Initial Receiver Order, *nunc pro tunc* to the entry of the Initial Receiver Order. The Receiver has filed a motion to amend the Receiver Order contemporaneously herewith.

E. Each of the filing of the Response by the Defendants and the entry of the Initial Receiver Order constituted an Event of Default (as defined in the Credit Agreement) pursuant to Section 8.1(f) of the Credit Agreement.

F. The Parties have consented to entry of this Stipulation and Order to resolve certain issues regarding their respective rights and obligations with respect to this proceeding and the Receiver Order.

AGREED ORDER

NOW THEREFORE, UPON THE FOREGOING RECITALS, WHICH ARE INCORPORATED AS THOUGH FULLY SET FORTH HEREIN, IT IS AGREED AND, UPON COURT APPROVAL HEREOF, IT SHALL BE ORDERED THAT:

1. Fee Escrow. The Candlewood Holdback Amount (as defined in the Credit Agreement) may be used or otherwise disposed of in accordance with the terms of the Credit Agreement (including Sections 2.5 and 10.2 thereof) without the need for a further Court order authorizing the same.

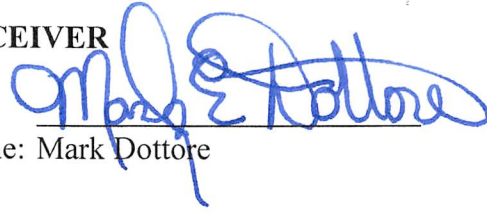
2. Conflict. In the event of any conflict between the terms and provisions of this Stipulation and Order and any other order of the Court (including the Receiver Order), the terms and provisions of this Stipulation and Order shall govern.

3. Retention of Jurisdiction. This Court shall retain jurisdiction over all matters pertaining to the implementation, interpretation and enforcement of this Stipulation and Order.

RECEIVER

By:

Name: Mark Dottore

A handwritten signature in blue ink, appearing to read "Mark E. Dottore", is written over a horizontal line. The signature is stylized with a large initial "M" and a prominent "E".

Submitted February 26, 2019

Digital Media Solutions, LLC

Audrey K. Bentz by Email Approval 2/26/2019

Steven G. Janik (0021934)

Audrey K. Bentz (0081361)

JANIK L.L.P.

9200 South Hills Blvd., Suite 300

Cleveland, OH 44147


Telephone: (440) 838-7600

Facsimile: (440) 838-7601


Email: Steven.Janik@janiklaw.com

Audrey.Bentz@janiklaw.com


SOUTH UNIVERSITY OF OHIO, LLC

By: 
Name: Mark Dottore
Title: Receiver


DREAM CENTER EDUCATION HOLDINGS, LLC

By: 
Name: Mark Dottore
Title: Receiver

THE DC ART INSTITUTE OF RALEIGH-DURHAM, LLC

By: 
Name: Mark Dottore
Title: Receiver


THE DC ART INSTITUTE OF CHARLOTTE, LLC

By: 
Name: Mark Dottore
Title: Receiver

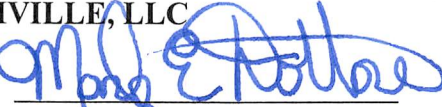
DC ART INSTITUTE OF CHARLESTON, LLC

By: 
Name: Mark Dottore
Title: Receiver


DC ART INSTITUTE OF WASHINGTON, LLC

By: 
Name: Mark Dottore
Title: Receiver


THE ART INSTITUTE OF TENNESSEE – NASHVILLE, LLC

By: 
Name: Mark Dottore
Title: Receiver


AITN RESTAURANT, LLC

By: 
Name: Mark Dottore
Title: Receiver

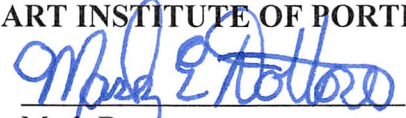
THE ART INSTITUTE OF COLORADO, LLC

By: 
Name: Mark Dottore
Title: Receiver

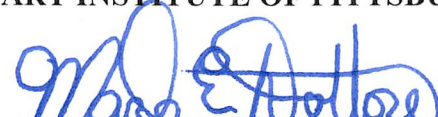
DC ART INSTITUTE OF PHOENIX, LLC

By: 
Name: Mark Dottore
Title: Receiver


THE ART INSTITUTE OF PORTLAND, LLC

By: 
Name: Mark Dottore
Title: Receiver

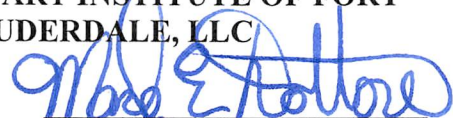
THE ART INSTITUTE OF PITTSBURGH, DC, LLC

By: 
Name: Mark Dottore
Title: Receiver


THE ART INSTITUTE OF PHILADELPHIA, DC, LLC

By: 
Name: Mark Dottore
Title: Receiver

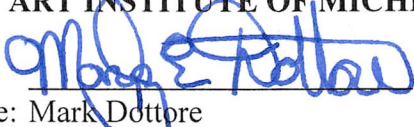
DC ART INSTITUTE OF FORT LAUDERDALE, LLC

By: 
Name: Mark Dottore
Title: Receiver

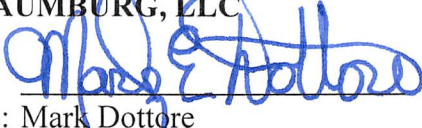
THE ILLINOIS INSTITUTE OF ART, LLC

By: 
Name: Mark Dottore
Title: Receiver

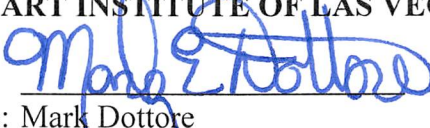
THE ART INSTITUTE OF MICHIGAN, LLC

By: 
Name: Mark Dottore
Title: Receiver


**THE ILLINOIS INSTITUTE OF ART AT
SCHAUMBURG, LLC**

By: 
Name: Mark Dottore
Title: Receiver

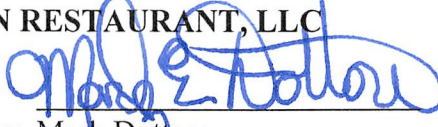
THE ART INSTITUTE OF LAS VEGAS, LLC

By: 
Name: Mark Dottore
Title: Receiver

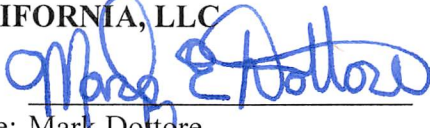
**THE ART INSTITUTE OF INDIANAPOLIS,
LLC**

By: 
Name: Mark Dottore
Title: Receiver

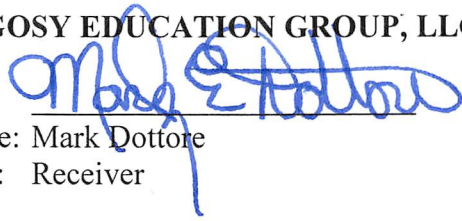
AIIN RESTAURANT, LLC

By: 
Name: Mark Dottore
Title: Receiver


**DREAM CENTER ARGOSY UNIVERSITY OF
CALIFORNIA, LLC**

By: 
Name: Mark Dottore
Title: Receiver

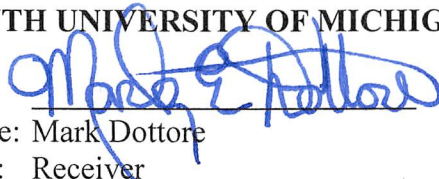
ARGOSY EDUCATION GROUP, LLC

By: 
Name: Mark Dottore
Title: Receiver

**DREAM CENTER EDUCATION
MANAGEMENT, LLC**

By: 
Name: Mark Dottore
Title: Receiver

SOUTH UNIVERSITY OF MICHIGAN, LLC

By: 
Name: Mark Dottore
Title: Receiver

**FLAGLER MASTER FUND SPC LTD., acting
for and on behalf of the Class B segregated
portfolio**

By: Candlewood Investment Group, LP, its
investment advisor

By: 

Name: Justin Wohler

Title: Authorized Signatory

U.S. BANK, NATIONAL ASSOCIATION

as DCEH Agent

By: *Crystal L. Crudup-Burt*
Name: Crystal Crudup-Burt
Title: Vice President

U.S. BANK, NATIONAL ASSOCIATION

as EDMC Agent

By: *Crystal L. Crudup-Burt*
Name: Crystal Crudup-Burt
Title: Vice President

It is SO ORDERED:

Dated: _____, 2019

DAN AARON POLSTER
UNITED STATES DISTRICT COURT JUDGE

Submitted by:

WHITMER & EHRMAN LLC

/s/ James W. Ehrman

Mary K. Whitmer (0018213)

James W. Ehrman (0011006)

Robert M. Stefancin (0047184)

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